



January 8, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re\ Application of: Glenn H. Bostock

Appln. No.: 09/490,268

Examiner: J. Thissell

Filed: January 24, 2000

Group Art Unit: 3635

For: WALL PANELING ASSEMBLY  
AND SYSTEM

(Atty. Docket No. 27428-A USA)

STATEMENT OF GLENN H. BOSTOCK IN SUPPORT OF  
PETITION FOR REVIVAL OF AN APPLICATION  
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

Commissioner for Patents  
Mail Stop Petitions  
P. O. Box 1450  
Alexandria, VA 22313-1450

**RECEIVED**

**JAN 13 2004**

**OFFICE OF PETITIONS**

Dear Sir:

1. I, Glenn H. Bostock, residing at 3300 Buck Road, Bryn Athyn, Pennsylvania 19009, am the inventor of the invention disclosed and claimed in U.S. Application No. 09/490,268, filed January 24, 2000 (hereafter "the application").

2. I authorized Joseph W. Molasky (Registration No. 20,951) to prepare and prosecute the application with the U.S. Patent and Trademark Office as evidenced in a facsimile correspondence dated June 1, 1999 and provided as Exhibit A.

3. Attorney Molasky reported filing of the application in a letter to me dated February 6, 2000, provided as Exhibit B. A first Office Action was reported to me in a letter from attorney Molasky dated June 12, 2000 (Exhibit D). In a subsequent letter dated January 16, 2001 (Exhibit F), attorney Molasky reported filing of a reply to the first Office Action. A second Office Action was reported in a correspondence dated January 25, 2001 (Exhibit H) from attorney Molasky. The

filing of a reply to the second Office Action was reported to me in a letter dated October 17, 2001 from attorney Molasky (Exhibit M). I received no further written correspondence from attorney Molasky after the October 17, 2001 letter.

4. After October 17, 2001, I telephoned attorney Molasky periodically to check on the status of the application. Each time I spoke with him, I was assured that everything was on track and that we were waiting to hear from the Examiner regarding the reply to the second Office Action as stated in the October 17, 2001 letter.

5. As time progressed, I became concerned about the lack of progress on the application. I continued to telephone attorney Molasky, but he became more and more difficult to speak with. By June of 2002, I started to keep a log of telephone calls and letters which I sent to attorney Molasky (Exhibit N). I am unfortunately unable to locate copies of any of the letters that I sent to him. When I was able to speak with him between June of 2002 and September of 2003, attorney Molasky continued to assure me that we were still waiting to hear from the Examiner at the Patent Office.

6. On September 24, 2003, I left a voice mail message with attorney Molasky requesting a written report on the status of the application (see Exhibit N). Having received no reply, in November of 2003, I contacted another attorney, Charles H. Lindrooth and authorized him to investigate and report on the status of the application (Exhibit O).

7. Attorney Lindrooth called me on December 11, 2003 and informed me that the application was abandoned because of a failure to respond to the second Office Action (Exhibit G). This is the first time I became aware that the application was considered abandoned. Up until December 11, 2003, I was under the impression that I was still awaiting word from the

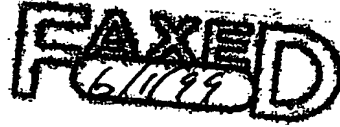
Examiner because this is what I had been told repeatedly by attorney Molasky, in the letter of October 17, 2001 (Exhibit M), as well as in every telephone conversation I had with him subsequent to receipt of the October 17, 2001 letter. At no time did I authorize or intend the application to go abandoned. Based upon the assurances of attorney Molasky, I believed that the application was still being prosecuted.

8. After learning that the application was abandoned, I authorized attorney Lindrooth to revive it and continue prosecution in a letter dated December 17, 2003 (Exhibit S).

9. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date:

1/8/04  
\_\_\_\_\_  
Glenn H. Bostock



Date: 6/1/99

To:

Joseph Molasky  
Phone: 215-822-3324  
Fax: 215-997-2801

**CONFIDENTIAL**

From: Bostock Company Inc.  
Glenn Bostock  
Phone: 215-442-0820  
Fax: 215-442-0821

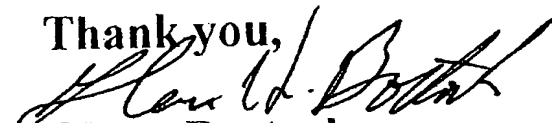
Pages:2

Subject: Continuation -in-part

Joe,

The drawings (fig. 11,12,13 & 14) All look good as is.

Thank you,



Glenn Bostock

Joseph W. Molasky  
& Associates

Attorneys at Law

Patents, Trademarks  
Copyrights

Patents International  
Chalfont Centre  
4 Limekiln Pike  
Chalfont, PA 18914

Cable Address: JOMOPAT, Chalfont  
Phone: (215) 822-3324  
Facsimile: (215) 997-2801

May 27, 1999

Glenn H. Bostock  
Bostock Company, Inc.  
133 Horsham Road  
Horsham, PA 19044

Re: Proposed Continuation-in-Part Application based upon  
U.S. Serial No. 09/235,620; G. BOSTOCK  
Case 720A; WALL PANELING ASSEMBLY AND SYSTEM

Dear Glenn:

Enclosed are the additional drawings on which we will base your Continuation-in-Part (CIP) patent filing.

Please examine all figures carefully and tell us whether they accurately depict your invention and cover the point of novelty. *Drawings look good. JWB. 6/1/99*

Once we have your approval, we will begin drafting the specification and claims and send a copy for your assessment in due course.

The drawings should be self-explanatory, but if you have questions, please don't hesitate to contact me.

Kindest regards,

  
Joseph W. Molasky & Associates  
Attorneys at Law

JWM/gds

Enclosure: Drawings (2 Sheets; Figures 11-14)

13784-6  
Fig. 11

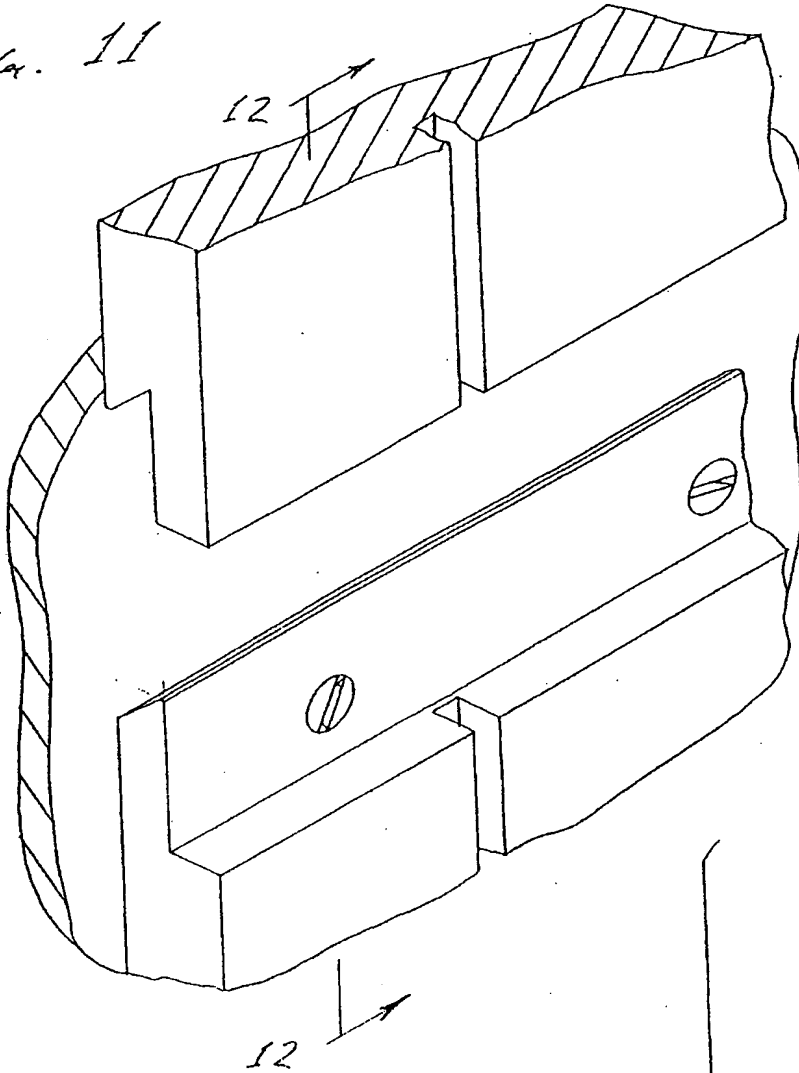


Fig. 12

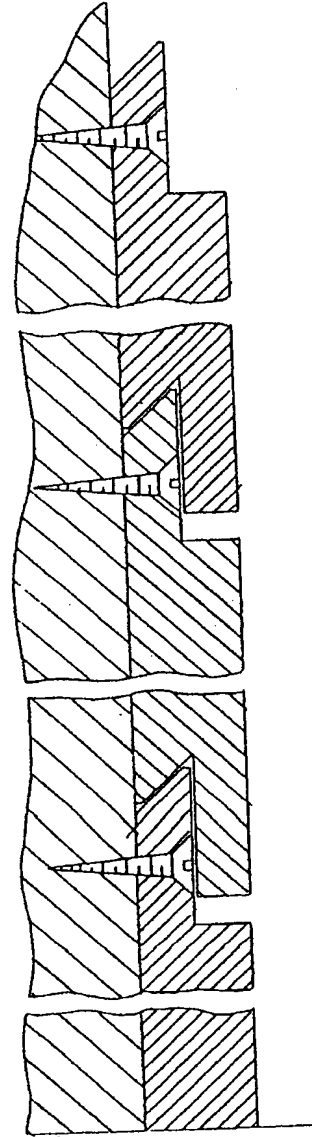
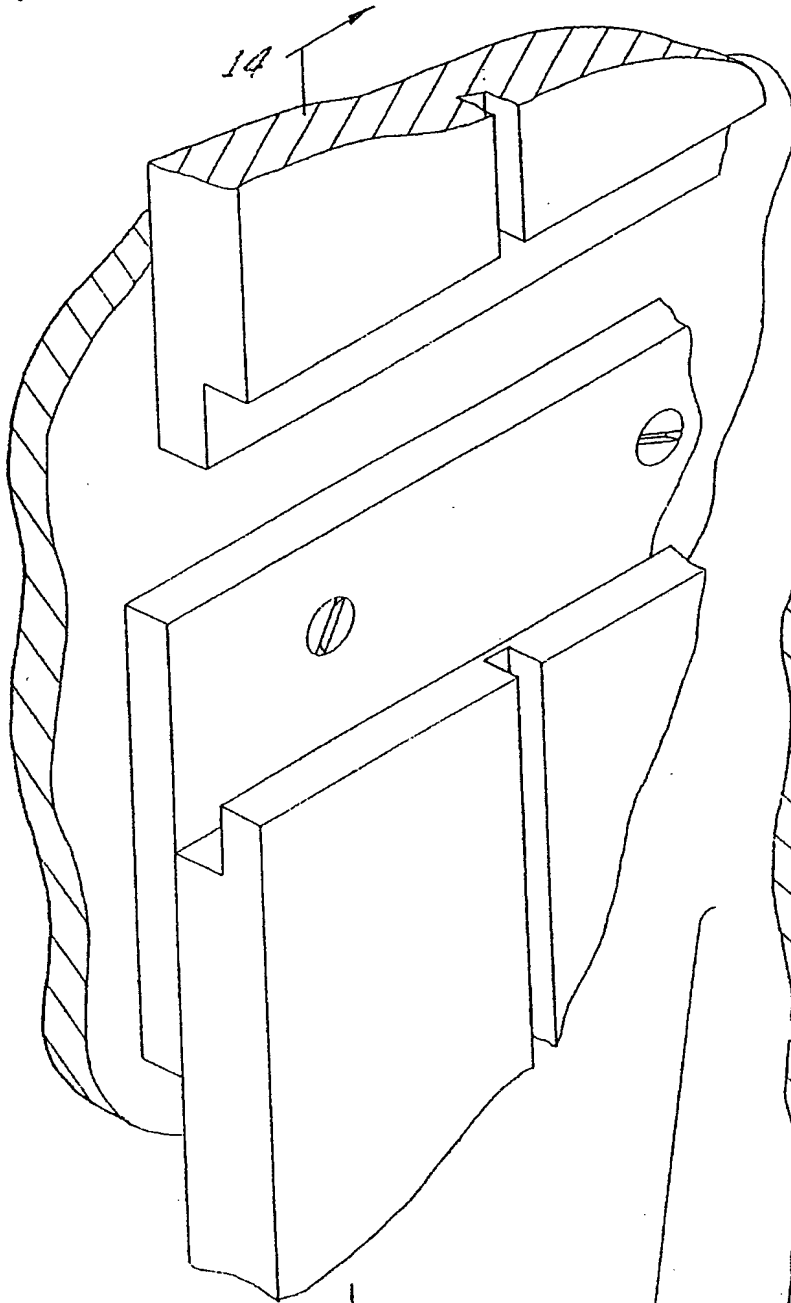
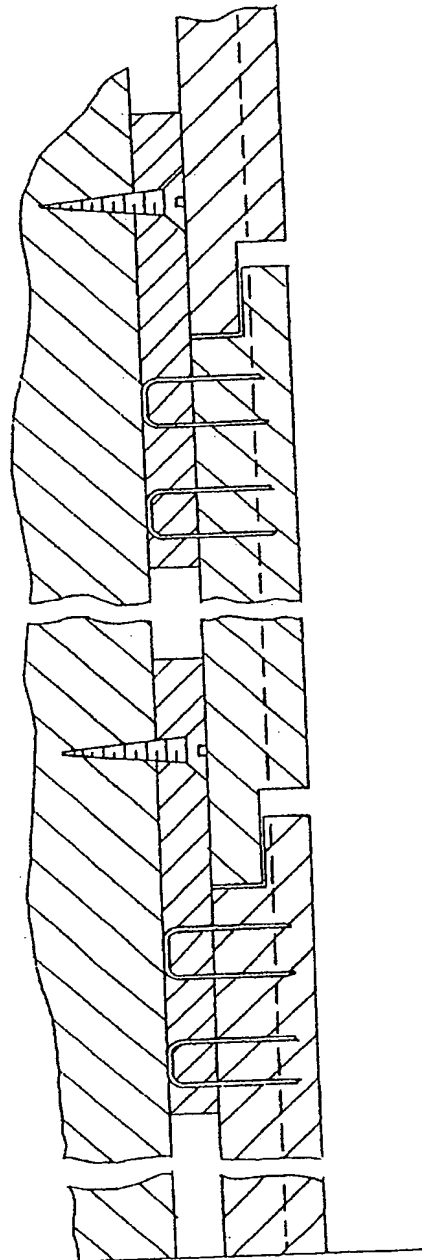


Fig. 13



14

Fig. 14



*Joseph W. Molasky  
& Associates*

*Attorneys at Law*

*Patents, Trademarks  
Copyrights*

*Patents International  
Chalfont Centre  
4 Limakilo Pike  
Chalfont, PA 18914*

*Cable Address: JOMOPAT. Chalfont  
Phone: (215) 822-3324  
Facsimile: (215) 997-2801*

February 6, 2000

Glenn H. Bostock  
Bostock Company, Inc.  
133 Horsham Road  
Horsham, PA 19044

Re: New U.S. Continuation-in-Part Application; G. H. BOSTOCK  
Corresponding Parent: U.S. Serial No. 09/235,620  
Case 720A; A NOVEL PANELING SYSTEM

Dear Glenn:

Enclosed is a copy of your CIP Application as filed:

- (1) Transmittal Letter Dated January 24, 2000
- (2) Application: Cover Page, Specification Pages 1-25, Claims 1-25, Abstract, and Drawings (5 Sheets, Figures 1-12);
- (3) Declaration and Power of Attorney;
- (4) Assignment in favor of Bostock Company Inc.; and
- (5) Express Mail Certificate.

**Filing Date:** We filed this application under the Patent Office Certification Program on January 24 using the Postal Service as our depository. Accordingly, it will receive a same-day filing date retroactive to January 22, 2000. When we have the Official Filing Receipt, we will forward a copy for your records.

**CIP Status:** This application is a Continuation-in-Part (CIP) of parent Application Serial No. 08/235,620, and it is entitled to the benefit of the parent filing date (January 22, 1999) for all common subject matter.

This CIP and your 'parent' case (U.S. Serial No. 09/235,620) cover the same invention; however, as you know, the CIP text has been revised extensively and broadened to include new features so that, as a practical matter, the specification and claims are new. Figures 11 and 12 represent new preferred embodiments of the invention.



G.H. Bostock

February 6, 2000

-2-

Note: A CIP is an application filed while an earlier or first application (of the same inventor) is still pending. It discloses subject matter common to both cases and, also, subject matter which is new. Those claims of the CIP, which are supported by the earlier filed case (i.e., the 'parent' application), are given the benefit of the earlier or first filing date and those claims which are not supported by the first application, are accorded the filing date of the CIP.

**Prosecution:** This application will be given an examination and the Examiner will give us his report (i.e., Official Action) within about five to six months. A copy of the Examiner's Action, together with our advice, will be forwarded to you upon receipt.

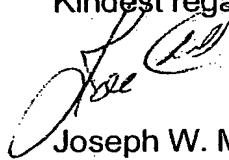
**Information Disclosure Statement (IDS):** An IDS must be made of record in your official file within three months, that is, on or before April 24, 2000. The IDS which we filed in Serial No. 09/235,620 is also relevant to this CIP application and, therefore, unless you advise to the contrary, we will give the Examiner the same references. If you are not in agreement or if you are aware of other relevant prior art which should be included in the IDS, please tell us. We have scheduled this case for IDS Filing on March 20, 2000.

**Assignment:** We have recorded your Assignment in favor of Bostock Company, Inc., and paid the Recordation Fee. The Recorded Deed, once returned, will be forwarded to you for safekeeping.

**PCT Filing:** An International (i.e., foreign) application corresponding to this CIP was also filed under the Patent Cooperation Treaty and we are giving you the particulars on this in a letter which is being simultaneously mailed.

If you have questions please let me know.

Kindest regards,



Joseph W. Molasky & Associates  
Attorneys at Law

JWM/lrd

Enclosures: Items 1-5, supra.  
Debit Note No. 4446

*Joseph W. Molasky  
& Associates*

*Attorneys at Law*

*Patents, Trademarks  
Copyrights*

*Patents International  
Chaffont Centre  
4 Limokiller Pike  
Chaffont, PA 18914*

*Cable Address: JOMOPAT, Chaffont*

*Phone: (215) 822-3324*

*Facsimile: (215) 997-2801*

June 12, 2000

Glenn H. Bostock  
440 Blairmill Road  
Hatboro, PA 19440

Re: U.S. CIP Appln. No. 09/490,268; G. H. BOSTOCK  
Corresponding Parent: U.S. Serial No. 09/235,620  
Case 720A: A NOVEL PANELING SYSTEM

Dear Glenn:

We have received in your captioned case the Examiner's First Action:

- 1) Official Action Dated April 26, 2000 (Paper No. 3);
- 2) Office Action Summary; Attachment to Paper No. 3; and
- 3) Notice of References Cited:

<u>Patentee</u>	<u>U.S. Patent No.</u>
DAIL	2,898,640
FRASHOUR	3,200,553
BROWN	3,347,048
KOWALLIK	4,100,710
SEARER	5,570,554

- 4) Information Disclosure Statement (Examiner approved copy).

Only Dail and Frashour are relevant. The remaining references have been cited merely to show the state of the art.

Claims 1-25 are in this application. No claims have been allowed.

The numbered paragraphs below correspond to the like-numbered paragraphs

G. Bostock

June 12, 2000

-2-

in the Official Action.

1. This is your CIP Filing and we have been asked to add to the text a reference to your earlier filed case. We will attend to this in our reply.

2. Claims 12-16 are said to be indefinite because they fail to define what is meant by the "depth" of the groove in your panel pieces.

Specifically, the Examiner wants to know if the depth is measured by reference to the panel's front leg or rear leg.

The groove is measured by reference to the rear leg as shown in Figures 2 and 3, and we will amend Claims 12 and 13 to include this feature.

3 & 4. Claims 1- 11, 12-16 and 22-25 are rejected on double patenting. This rejection is based on what the Examiner perceives as an overlap in the claimed subject matter of this application and co-pending application No. 09/235,620.

Double patenting is a 'judicially created doctrine'; it means simply that where there is one invention, only one patent can issue. In other words, in the Examiner's view, we are claiming the same invention twice.

To some extent, the Examiner is correct. The claims in both applications overlap to some extent and we shall have to maintain a clear dichotomy between the subject matter claimed.

However, there is a body of law which holds that a Terminal Disclaimer can be used to overcome a double patenting rejection when the overlapping claims differ to a significant degree.

The Examiner is aware of this and he has raised the issue in the Official Action (page 3, second paragraph). The Examiner's concern is that the claims do not read literally on one another. If they do not (and he is satisfied that they are sufficiently distinct), then a Terminal Disclaimer will overcome the double patenting rejection.

When we respond, we will include a Terminal Disclaimer and argue that the differences which separate these two 'inventions', that is, the present invention and the one claimed in your parent case, are sufficient to warrant two separate patents.

If the Terminal Disclaimer is accepted and two patents issue, they will have to expire at the same time so that there will not be any unlawful extension of the patent monopoly. Also, the patents must be commonly owned.

G. Bostock

June 12, 2000

-3-

Note: "Double patenting" applies only to claims which cover common subject matter. Accordingly, it does not apply to those present claims which cover your 'beveled panel pieces'. The 'beveled' pieces are shown in Figures 11 and 12 and they are covered by present Claims 17-21. They are new and have no antecedence in your parent case.

5. Claims 1-3 and 8-14 are rejected as being fully met by Dail which shows ceiling panels joined to one another in a horizontal plane.

One side-edge of each panel is equipped with a mortise 24 and the opposite side-edge is equipped with a tenon 26 (Figure 3).

The length of the tenon is shorter than the depth of the mortise so that, when joined, a space 28 is formed between the assembled pieces.

I would respond by pointing out that, unlike Dail, your panel pieces, when joined, afford an elongate space or accent line 14 (Figure 3). *a larger space or accent line isn't enough.*

By contrast, the panel pieces of Dail, when joined, abut one another and afford no such line or space. *Triangular space in Fig 3, mentioned by Examiner p5*

6. Claims 18 and 19 are rejected as being fully met by Frashour which describes flooring strips joined to one another by tongue and groove means.

The end segments of these strips are beveled and the Examiner reasons that they are joined to one another in a manner identical to that of your panel pieces.

We would reply by pointing out that in your invention the panel pieces interlock in a beveled manner and, once joined, they form an elongate recess or groove.

By contrast, the flooring strips of Frashour, when joined, abut one another and form no elongate groove or recess (Figure 2). Absent such a teaching, it is not understood how Frashour can be considered relevant. *at one surface*

2, 52, 34, and one next to 20 are ~~recesses~~ *recesses ? Triangular groove shown, to*  
7. Claims 4-7, 15, 16 and 22-25 are rejected as being unpatentable on the ground that it would be obvious to use the ceiling panels of Dail for wall paneling purposes.

I would argue that this is not a matter of design choice. Unlike your assembly, the panel pieces of Dail abut one another. This abutment is the problem which your invention is designed to avoid and, therefore, it does more to lead away from your

G. Bostock

June 12, 2000

-4-

concept than to suggest it.

8. Claims 17, 20 and 21 are rejected as unpatentable over Frashour on the ground of obviousness [(35 USC 103(a)].


Frashour discloses panel pieces whose opposing edge faces are beveled and interlock with panels of like-configuration. The assembled panels are used as flooring. The Examiner reasons that it would be obvious to place the flooring of Frashour in an upright position to serve as wall paneling; however, Frashour does not eliminate the cantilever force effect which results when the tongue end of one panel comes into contact with the groove-base of an adjoining panel. \*

✓ The present invention (Claims 17, 20 and 21) eliminates this cantilever effect and creates, instead, a shear force. Frashour neither teaches nor suggests such an assembly nor does he recognize the problem which your invention is designed to solve.

Please tell me if you agree or give me your view.

The deadline for reply to the Official Action expires July 26, 2000, and, therefore, your prompt instructions would be appreciated.

Kindest regards,

  
Joseph W. Molasky & Associates  
Attorneys at Law

JWM/lrd

Enclosures: Items 1-4, supra.  
Debit Note No. 4543

*The cantilever force in Frashour results from the outer surfaces touching, not from tongue hitting groove-base*

RECEIVED

JAN 13 2004

OFFICE OF PETITIONS

*Joseph W. Molasky  
& Associates*

*Attorneys at Law*

*Patents, Trademarks  
Copyrights*

*Patents International  
Chalfont Centre  
4 Limekiln Pike  
Chalfont, PA 18914*

*Cable Address: JOMOPAT, Chalfont  
Phone: (215) 822-3324  
Facsimile: (215) 997-2801*

January 16, 2001

Glenn H. Bostock  
440 Blairmill Road  
Hatboro, PA 19440

Re: U.S. CIP Appln. No. 09/490,268; G. H. BOSTOCK  
Corresponding Parent: U.S. Serial No. 09/235,620  
Case 720A; A NOVEL PANELING SYSTEM

Dear Glenn:

Enclosed is our reply to the First Action (Paper No. 3) issued in your captioned application:

- 1) Amendment; Rule 111 Inclusive of Amendment Transmittal Letter; and
- 2) Terminal Disclaimer to Obviate a Provisional Double Patenting Rejection.

I reported on the Official Action (Paper No. 3) in my letter to you dated June 12, 2000.

As you will see, we extensively amended Claims 1, 2, 12, 13, 17 and 18 to distinguish over the cited prior art, namely, Dail and Frashour. These amendments are in accord with the proposals set forth in my letter of June 12.

The Terminal Disclaimer was filed so that we might overcome the double patenting rejection based on 'parent' Serial No. 09/235,620; however, I cannot assure you that the Examiner will relent on this issue because there is, in fact, claim overlap between this case and your parent application and further amendment may be necessary. As a rule, however, a double patenting rejection can be overcome if applicant agrees to have both applications issue on the same day because that avoids any unlawful extension of the patent monopoly.

G. H. Bostock

January 16, 2001

-2-

When we have the Examiner's decision, I will give you a further report.

If you have questions please let me know.

Kindest regards,



Joseph W. Molasky & Associates  
Attorneys at Law

JWM/lrd

Enclosures: Amendment  
Debit Note No. 4649



EXHIBIT G  
Page 1 of 9

**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SK

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/490,268 01/24/00 BOSTOCK

G 720a

EXAMINER
----------

THISSELL, J

ART UNIT	PAPER NUMBER
----------	--------------

3635

DATE MAILED: 01/08/01

6

Joseph W Molasky & Associates  
4 S Limekiln Pike  
Chalfont PA 18914

PM82/0108

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**



**Office Action Summary**

Application No.

09/490,268

Applicant(s)

BOSTOCK, GLENN H.

Examiner

Jennifer I Thissell

Art Unit

3635

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 October 2000.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- 5) ☐ Notice of References Cited (PTO-892)
- 6) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 7) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

Application/Control Number: 09/490,268

Page 2

Art Unit: 3635

## **DETAILED ACTION**

### ***Double Patenting***

1. It should be noted that the Terminal Disclaimer filed October 30, 2000 is not considered proper and therefore has not been entered. However, since application # 09/235620 has been abandoned and is no longer co-pending with the instant application, applicant is not required to resubmit the Terminal Disclaimer because it is no longer necessary.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 17 and 18, as amended, are conflicting and fail to clarify the panel piece. It is unclear to the Examiner as to how there can exist a beveled recess that extends from the "front side" to the "rear side" of the panel, while at the same time there is a projecting flange of which the recess is defined by. It is not possible from the description to have a beveled recess that extends across entire panel from front to rear side if there is also a projecting flange portion.

Application/Control Number: 09/490,268  
Art Unit: 3635

Page 3

***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3 and 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Dail ('640). Regarding claim 1, Dail discloses a panel piece 22 having front and rear sides, a pair of opposing side faces and opposing edge faces, one edge face being an elongate projection 26 with an end termination, the other edge face being an elongate recess including a bottom surface, the recess being of greater depth than the length of the projection. It can be seen in Figure 3 that when like panels are joined the projection end termination does not contact the recess bottom surface, leaving an open space therebetween.

Regarding claim 12, Dail discloses a panel piece 22 having front and rear sides, a pair of opposing edge faces, one edge face being a tongue 26 between a front edge flange and a rear edge flange, the other edge face being a groove including a rear leg, a front leg, and a base member, the rear leg being greater in length than the front leg. It can be seen in Figure 3 that if like panels would be joined, the rear edge flange of the first edge face rests upon the rear leg of the second edge face, leaving an open space therebetween.

Regarding claims 2, 3, 13, and 14, Dail discloses panel pieces that are joined to one another and are secured to a support structure 20, which is considered a studded frame.

Application/Control Number: 09/490,268  
Art Unit: 3635.

Page 4

Regarding claims 8, 9, and 11, the panel assembly inherently includes top and bottom panel pieces that have grooves, as all the disclosed panel pieces do, and are located at the uppermost and lowermost locations of the assembly, when in reference to the entire structure.

Regarding claim 10, Dail's indented shadow line can be seen in Figure 3 on the front face (bottom of picture) where the two panels meet.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4-7, 15, 16, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dail ('640). Dail discloses an assembly as stated above in section 3, except for the following features:

Regarding claims 4, 15, and 23, Dail does not state that the support structure is a wall of an elevator. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use Dail's paneling assembly in an upright position an elevator wall, since basic panel pieces with tongue and groove interconnections are commonly used with floors, walls, and ceilings. Also, to be used in an elevator would be an obvious use of a panel system, since the assembly could be attached to any type of room or wall with a basic support structure.

Application/Control Number: 09/490,268  
Art Unit: 3635.

Page 5

Regarding claims 5-7, 16, and 24, Dail teaches a panel assembly that is nailed or otherwise fastened to the support members (column 2, lines 15-16). It does not specifically state that screw or adhesive means are used, however, these are alternative fastening means that are common and well known in the art of building construction. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a screw or adhesive to fasten the panels to the support member, since screws would provide more of a secure hold between structural elements and an adhesive would invisibly secure the elements.

Regarding claims 22-25, since all of the structural elements are disclosed and discussed in the sections above, the steps of securing panels to a support structure, interlockingly engaging the panel pieces, and forming a line in the form of a space which is disclosed, are considered the obvious method of creating a panel assembly.

***Allowable Subject Matter***

5. Claims 17-21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.
6. The following is a statement of reasons for the indication of allowable subject matter: Regarding claims 17 and 18, prior art fails to disclose panel pieces disposed atop one another, each piece having a beveled recess which

Application/Control Number: 09/490,268  
Art Unit: 3635

Page 6

extends from the front side of the panel piece, and a projecting second flange that has a length that is greater than that of the first flange so that when pieces are joined it results in an elongated space between them.

***Response to Arguments***

7. Applicant's arguments filed October 30, 2000 have been fully considered but they are not persuasive.

In response to applicant's argument that Dail has a v-shaped reinforcing strip disposed within the space between the joined pieces, and therefore does not have an "open space" between mated panels, the Examiner takes the position that the phrase "open space" is more broad in scope, and that there is in fact an open space between the panels when joined. Even though there is a reinforcement strip in between taking up some of the open space, there is still an open space between the panels.

Regarding applicant's argument that Dail's invention allows the cantilever force to continue and exist unlike the instant invention, it should be noted that the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art.

Application/Control Number: 09/490,268  
Art Unit: 3635

Page 7

**Conclusion**

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer I Thissell whose telephone number is (703) 306-5750.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Application/Control Number: 09/490,268

Page 8

Art Unit: 3635

  
**CHRISTOPHER T. KENT**  
**PRIMARY EXAMINER**

 January 3, 2001



*Joseph W. Molasky  
& Associates*

*Attorneys at Law*

*Patents, Trademarks  
Copyrights*

*Patents International  
Chaffont Centre  
4 Limekiln Pike  
Chaffont, PA 18914*

*Cable Address: JOMOPAT, Chaffont  
Phone: (215) 822-3324  
Facsimile: (215) 997-2801*

January 25, 2001

Glenn H. Bostock  
440 Blairmill Road  
Hatboro, PA 19440

Re: U.S. CIP Appln. No. 09/490,268; G. H. BOSTOCK  
Corresponding Parent: U.S. Serial No. 09/235,620  
Case 720A: A NOVEL PANELING SYSTEM

Dear Glenn:

Enclosed is a Second Action received in your captioned application:

Official Action Dated January 8, 2001 (Paper No. 6)

Claims 1-21 are in this application. No claims have been allowed.

The following paragraphs have been numbered to correspond to the like-numbered paragraphs in the Official Action.

**2, 5 and 6; Claims 17-21:** These claims are rejected on formal grounds only. The Examiner has dropped the rejection on art and he will allow these claims provided we amend and overcome what he perceives to be undue breadth in the definition of the "front side" and "rear side" of your panel pieces.

Claims 17-21 cover the beveled panel pieces *per se* (Claim 17) and the assembly which results when these pieces are combined (Claim 18). These embodiments are illustrated Figures in 11 and 12 of your drawings.

We can attend to the amendment without instructions.

G. Bostock

January 25, 2001

-2-

**3 and 4; Claims 1-3, 4-7, 8-14, 16 and 22-25:** These claims cover subject matter which is also covered by your parent Serial No. 235,620. These claims are rejected as unpatentable over Dail who shows panel pieces used to create a ceiling.

We argued in our previous Amendment that the panel pieces of Dail, when assembled, abut one another and thus fail to provide that space between panel pieces which is needed to avoid a cantilever force effect. A clear picture of the abutting panel pieces of Dail is shown in Figures 2 and 3.

The Examiner has argued (Official Action; page 6, paragraph 7) that there is in fact an "open space" between Dail's panel pieces, albeit with a V-shaped reinforcing strip. An illustration of this V-shaped strip is shown in Dail's Figure 3.

The Examiner is only partially correct in his assessment.

Dail does show, in Figure 3, a space between the tongue and groove of two adjoining panel pieces; however, the front and rear legs of these pieces are in abutting contact with one another and this contact transfers the exerted force onto each front leg and each rear leg. As a result there is present, in Dail, a cantilever force effect between the abutting panel pieces both in the front and the back.

By contrast, in your invention, as claimed, the cantilever force effect is eliminated by transferring the exerted force solely onto the rear leg and shoulder of adjoining panel pieces. As a result, the shear force is distributed evenly and solely onto these abutting portions only.

If you agree, we will make such an argument and amend to distinguish over Dail.

If you are not agreement, please give us your advice.

1. The Examiner is incorrect in holding that your parent application, Serial No. 09/235,620, has been abandoned (Official Action, page 2).

Serial No. 09/235,620 is still pending and, therefore, we shall submit again the Terminal Disclaimer which the Examiner assumes is no longer needed. Once the Disclaimer is accepted, it should avoid the double patenting rejection raised in the First Action.

The deadline for response is set to expire April 8, 2001; however, your prompt

G. Bostock

January 25, 2001

-3-

instructions would be appreciated.

Kindest regards,

  
Joseph W. Molasky & Associates  
Attorneys at Law

JWM/lrd

Enclosures: Second Official Action  
Debit Note No. 4652

*Joseph W. Molasky  
& Associates*

*Attorneys at Law*

*Patents, Trademarks  
Copyrights*

*Patents International  
Chalfont, Centre  
4 Limekiln Pike  
Chalfont, PA 18914*

*Cable Address: JOMOPAT, Chalfont  
Phone: (215) 822-3324  
Facsimile: (215) 997-2801*

October 17, 2001

Glen H. Bostock  
440 Blairmill Road  
Hatboro, PA 19440

Re: U.S. CIP Appln. No. 09/490,268; G. H. BOSTOCK  
Corresponding Patent: U.S. Serial No. 09/235,620  
Case 720A; A NOVEL PANELING SYSTEM

Dear Glen,

Sorry to have kept you waiting; here is my reply to the Examiner's Action:

- (1) Amendment; Rule 116;
- (2) Amended Claims, 37 CFR 1.121;
- (3) Letter to the Draftsperson;
- (4) Amendment Transmittal Letter;
- (5) Notice of Appeal; and
- (6) Certificate of Mailing.

Item (2) is a 'Clean Version' of the claims as amended. It corresponds to the changes presented in the Rule 116 Amendment [Item (1) above]. This 'Clean Version' is the result of a rule change which requires that a clean copy of changes made to the claims during prosecution be submitted so that they might be used for printing when the application is allowed.

The Amendment is self-explanatory. Claims 17-21 are rejected on purely formal grounds and the amendments made should place them in condition for allowance.

Claims 1-3, 4-7, 8-16 and 22-25 are rejected as being unpatentable over the Dail reference which we gave you with our letter of January 25, 2001. This Amendment provides for an "empty space" between panel pieces and this should serve to distinguish your assembly from the prior art (Dail). In Dail there is a 'space' but it is not 'empty' because it contains a "V-shaped reinforcing strip".

G. H. Bostock

October 17, 2001

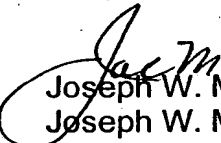
-2-

The drawings were corrected as shown in red in the enclosed copy. As you will see, we added to Figure 12 the numeral 164 so as to bring it into conformity with the text. In the text item "164" is referred to as the "bottom side" of flange 158. Accordingly, the drawings, as corrected, appear to be acceptable in every respect.

When we hear further from the Examiner, I will give you a further report.

The 'Appeal' is procedural only. This application is under Final Rejection and, therefore, it was necessary to file a Notice of Appeal as insurance, in case the Examiner holds that the application is not in condition for allowance and additional time is needed.

Kindest Regards,

  
Joseph W. Molasky  
Joseph W. Molasky & Associates  
Attorneys at Law

JWM/kdd

Enclosures: Items 1-6, Supra  
Debit Note No. 4813



# Notes/History

EXHIBIT N  
Page 1 of 1

Glenn Bostock, Bostock Company Inc.  
135 Horsham Rd.  
Horsham PA 19044

Date Range: All Dates

Number of Contacts: 1

Contact :			Joseph Molasky
note	9/24/2003	5:01 PM	Left message asking for a written report on the status of my patent and registration of Bostock ILP
note	7/28/2003	1:57 PM	Talked with Joe a month or two ago. He said that he had received a letter which he thought said that our patent had gone through in the foreign case.
note	6/10/2003	11:28 AM	Got Call from Bill Swenson that Vendor at CECA show was copying my product. This is a vendor whom Gino Berube in Ottawa Canada apparently gave my product to copy. Joe will find out the status of my foreign application. He said to get more info on this vendor.
note	4/2/2003	3:27 PM	Talked to Joe , Told him his VM was full and I had called him twice lately. He said he would try to get an answer on my patent. I let him know I was getting impatient.
letter Sent	1/29/2003	5:14 PM	Registered trade mark
note	1/17/2003	11:32 AM	Called Joe, He said he would contact the patent office to find out the status of my case.
letter Sent	6/27/2002	11:19 AM	return

135 Horsham Road, Horsham, PA 19044 • Telephone: (888) 766-7834 • (215) 442-0820 • Fax: (215) 442-0821  
E-mail: Bostock@op.net • www.bostockilp.com

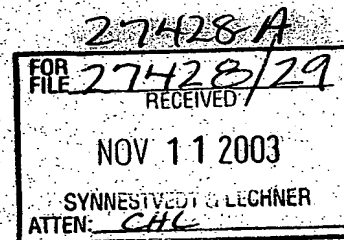
Tuesday, November 11, 2003

Mr. Lindrooth,

Thank you for your help. If you have any questions please call me any time.  
Glenn

Glenn Bostock  
Bostock Company Inc.  
135 Horsham Road  
Horsham PA 19044

215-442-0820 ext. 100  
Fax 215-442-0821  
Home 215-947-0889  
Cell 267-625-6350  
glennbostock@bostockilp.com



135 Horsham Road, Horsham, PA 19044 • Telephone: (888) 766-7834 • (215) 442-0820 • Fax: (215) 442-0821  
E-mail: Bostock@op.net • www.bostockilp.com

Wednesday December 17, 2003

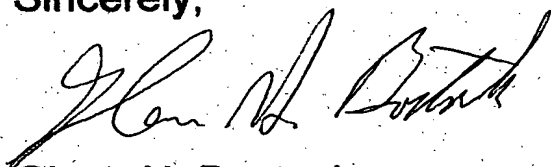
Mr. Charles H. Lindrooth  
Synnestvedt & Lechner LLP  
2600 Aramark Tower  
1101 Market Street  
Philadelphia PA 19170

Dear Mr. Lindrooth,

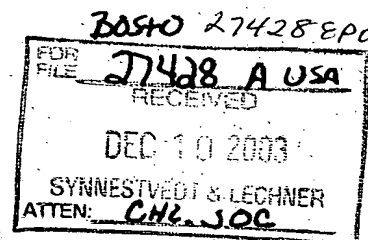
This letter is in regard to my patent application U.S. CIP Application No. 09/490,268. I would like to go forward with this application. I won't pursue the European Application No. 00909974.8.

I look forward to working with John Chionchio, the attorney who will be doing this work.

Sincerely,



Glenn H. Bostock



To JAC